

REMARKS

All the pending claims were rejected as being unpatentable in view of US 6,432,547 to Kroll. Applicants respectfully traverse.

Kroll teaches a film that includes a thermoplastic polymer compounded with at least one diluent or a radiation curable composition. The Examiner acknowledges that Kroll does not disclose stretching the film, but relying on *In re Rose*, the Examiner contends that it would have been obvious to one of ordinary skill in the art to stretch the film of Kroll since such a modification would have involved a mere change in the size of a component. Applicants cannot agree with the Examiner's reliance on *In re Rose*.

In re Rose concerned the rejection of a claim relating to a lumber package comprising bundles, each of which included a plurality of strips of lumber. The claimed package also required that the strips of each bundle be of appreciable width and thickness and each bundle be of appreciable length to provide a composite package of appreciable size and weight requiring handling by a lift truck. The prior art, on the other hand, disclosed a lumber package that consisted of bound layers of wood. The applicant in this case argued that the claim required the package to be of appreciable size and weight so as to require handling by a lift truck whereas the prior art package could be lifted by hand. The Court in affirming the rejection of the claim, stated "[w]e do not feel that this limitation is patentably significant since it at most relates to the size of the article under consideration which is not ordinarily a matter of invention. *In re Rose*, 105 USPQ 237, 240 (CCPA 1955).

The present claims are not analogous to those rejected in *In re Rose*, nor is the prior art. Instead, the present claims are not concerned with the change in the size of the component per se since, in use, the size of the claimed film would be the same as



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the size of the Kroll film. In other words, Applicants are not contending that the size of the claimed film distinguishes it from the Kroll film. Rather, the present claims are directed to a stretched film that, because it has been stretched, provides breathability greater than about 2500 g/m²/24 hrs. As demonstrated in Example 7 of the present specification it is the stretching that provides the claimed breathability as compared to an unstretched film. In other words, the claimed film is patentable over the Kroll film at least because of its claimed breathability.

Applicants believe the present claims are allowable and respectfully request allowance of the application. The Examiner is invited to contact the undersigned attorney at (312) 321-4276 to resolve any outstanding issues.

Respectfully submitted,

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